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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.38 OF 2005

The Commissioner of Income Tax ..Appellant.

V/s.

M/s.Mohan Hotels Pvt. Ltd. ..Respondent.

Mr.P.S.Sahadevan for appellant.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 16TH OCTOBER, 2007.

P.C. :-

Considering the facts on record, the Tribunal came to the conclusion that regarding the eligibility for set off of loss incurred in the present year is to be determined by the assessing officer having jurisdiction over the year in which the set off is claimed. In that context, the Tribunal observed that the observation made by the assessing officer and the CIT (A) in the orders impugned are, therefore, infructuous and accordingly the appeal was dismissed as infructuous. Considering the above, the question of law as formulated in para 5 of the appeal memo, does not arise. Hence appeal is dismissed.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**